

## **MEETING #8 February 6**

At a Joint Meeting of the Madison County Board of Supervisors on  
February 6, 2008, at 7:30 p.m. in the Madison County Administrative Center Auditorium:

PRESENT: Eddie Dean, Chairman, Eddie Dean  
James L. Arrington, Vice-Chairman  
William L. Crigler, Member  
Bob Miller, Member  
Clark Powers, Member  
V. R. Shackelford, III, County Attorney  
Lisa R. Kelley, County Administrator

Chairman, Eddie Dean called the meeting to order and stated that all members are present.

Chairman, Eddie Dean provided an overview of the final phase of tonight's meeting and stated the following cases would be discussed tonight:

Case #SP-12-06-68, which is a request by Richard R. or Lucy J. Hastings for a site plan to allow model home sales and display area. This property is located on Routes 231 and 643 at Etlan and contains 2.00 acres of land (recorded in 1949), zoned Conditional Business, B-1. (Variance for front setback was denied by the Madison County Board of Zoning Appeals on December 18, 2006 and July 16, 2007. The Virginia Department of Transportation would not approve the proposed sketch that the Hastings had done to try and comply with setbacks and parking. V. R. Shackelford, III, County Attorney, discussed the issue with Larry Fanton, representative from the Virginia Department of Transportation.

Doug Baumgardner, Attorney from Rappahannock County, was present on behalf of the applicants. He stated the matter was placed on tonight's agenda for approval of a site plan and presented some questions regarding photographs and a sketch as changes have been implemented on the Hastings property (i.e. removal of a roof and the log assemblages have been moved back so they are in line with the front porch of the main building located on the property) and therefore proposed the following questions:

1. In light of the circumstances, will site approval be required;
2. What does the zoning variance call for pertaining to log assemblages?

Doug Baumgardner indicated the roofing was removed to provide clarity and was driven by the definitions established in the County's Zoning and Site Plan Ordinance as well as the definition denoted in the building code (i.e. with regard to the definition of what a structure is); he also asked whether the aforementioned structure can actually be considered a "building" due the fact that a "building" is defined in the County's Zoning Ordinance as "a structure with one or more stories, a roof, designed primarily for supporting of person(s), animal(s) and property" (page 4 of the Site Plan Ordinance and Section 20-24 of the County's Zoning Ordinance). He also advised the building code defines a building as "any structure used or intended for supporting or sheltering any use and occupancy." He advised the questions are being raised with regard to whether a site plan should be required; he also advised the picture denotes a group of logs being displayed by the applicants for their business and when approval was granted for their conditional rezoning, the approval specified they would have the right to display their wares (i.e. no roof, flooring, or electricity).

Secondly, Doug Baumgardner advised a second issue of concern has to do with setbacks; he advised some logs were recently reassembled and relocated back off the highway so they are on-line with the front porch of the old store building. He advised that under Section 8.4.2 of the Madison County Zoning Ordinance, there is a denotation that on a B-1 property, when dealing with an accessory building, "there is no setback for an accessory building other than that the building will be on-line with the main building." He also provided an overview of an incident that took place with the Madison County Board of Zoning Appeals recently.

In closing, he asked if the Madison County Planning Commission was in the business of regulating and telling people how they can stack up displays and whether the County's Ordinance includes such a condition.

V. R. Shackelford, III, County Attorney, made reference to some comments made by Mr. Baumgardner; he also commented that interpretations can only be made by the Zoning Administrator; however, if Mr. Baumgardner and the applicants do not agree with the interpretation as noted, they have the right to appeal the decision before the Madison County Board of Zoning Appeals based on an interpretation of the County's Ordinance.

V. R. Shackelford, III, County Attorney, stated in his opinion, the only thing before the Madison County Planning Commission today is the site plan and should be acted on at tonight's meeting. He also stated some of the issues presented by Mr. Baumgardner regarding the building codes were just presented at tonight's meeting.

Doug Baumgardner stated he felt V. R. Shackelford, III, County Attorney, was absolutely correct in some of his comments in that the Zoning Administrator is responsible for interpreting the County's Zoning Ordinance; however, he was not in agreement with appealing to the Madison County Board of Zoning Appeals.

In closing, Doug Baumgardner stated there are three (3) options that can take place tonight regarding the applicants' request:

1. The site plan could be approved;
2. The site plan could be denied;
3. A vote could be taken to table the request.

Betty Grayson, Zoning Administrator, advised that once rezoning has been done, a site plan is still required for the construction and placement of products on the property.

Rodney Lillard advised the site plan does not meet the setback requirements as established by the Madison County Zoning Ordinance nor does the site plan have approval of the Virginia Department of Transportation.

V. R. Shackelford, III, County Attorney, advised the variance for setbacks in this particular case has been denied twice and there are still issues with the Virginia Department of Transportation and the Madison County Planning Commission recommended denial of this request.

James L. Arrington asked for what specific issues does the Virginia Department of Transportation have with this request, to which V. R. Shackelford, III, County Attorney, advised there were concerns with where the required parking will be located ( cannot have parking backing out into Rt. 231).

Bob Miller asked if the County had a copy of the concept drawing, to which Betty Grayson, Zoning Administrator, produced for review.

Doug Baumgardner verbalized concerns about the issues raised about parking.

Betty Grayson, Zoning Administrator, advised that parking must coincide with the property being utilized as a business; however, Doug Baumgardner stated the County's Ordinance makes reference to such requirements only if a substantial addition is made to the main building.

James L. Arrington stated this case has been on the docket a few times before and asked for clarification, to which Betty Grayson, Zoning Administrator, advised the case has been before the Madison County Board of Zoning Appeals twice and was denied.

Doug Baumgardner stated that an agreement had been attained with regard to the parking spaces that will be required despite the change in use of the structure; ultimately the Virginia Department of Transportation denied the request since their required the parking was situated along Rt. 231; however, he advised that he was unsure of the County's Ordinance containing any wording that requires such an increased number of parking spaces due to a change in usage of the property.

Bob Miller asked for clarification as to how the applicant can legally accomplish what he is requesting at tonight's meeting.

Betty Grayson, Zoning Administrator, advised there are guidelines to be followed in the event any new construction/development occurs on property; she advised the request includes new buildings at the site.

Doug Baumgardner stated the products at the site will consist of logs that will be situated in a crisscross position; he advised the applicant has been informed that thirty (30) additional parking spaces will be needed because of the usage, which he questions.

Bob Miller asked if a resolution could be attained with this request as he doesn't see where this cannot be accommodated based on "catches" in the County's Ordinance.

Chairman, Eddie Dean stated there appear to be several legal details involved with this request.

James L. Arrington suggested the request be tabled until Betty Grayson, Zoning Administrator, and V. R. Shackelford, III, County Attorney, can review and provide input.

Betty Grayson, Zoning Administrator, stated the property will have several uses occurring and a certain number of parking spaces are required based on the type of business being conducted at a site (antique shop, several dwellings;).

Doug Baumgardner stated the applicant's business solely depends upon his ability to display his "wears and materials" which is about fifty percent (50%) of his gross profits.

In closing, he stated he feels there has to be a solution to this problem either by text amendment or some other means.

Lisa Kelley, County Administrator, advised that Betty Grayson, Zoning Administrator, Wes Smith, Building Official, and V. R. Shackelford, III, County Attorney, have worked diligently to find a way to help the applicant and they have all met with the property owner at the site to try to work out the concerns; however, she stated that all conditions must be satisfied as denoted in the County's Zoning Ordinance as well as requirements established by the Virginia Department of Transportation.

Lisa Kelley, County Administrator, advised the site will have several different buildings on a 2.0 acre site and if a display area is needed there doesn't appear to be much room to have it situated along the roadside of Route 231; therefore, a display will need to be situated at the rear of the site.

In closing, Lisa Kelley, County Administrator, advised that when one issue was resolved, something else has cropped up due to the following:

1. Limited space at the site; and
2. Various uses on the site.

Doug Baumgardner thanked all who have worked diligently to resolve the applicant's request; he stated the dilemma arose with parking concerns brought forth by the Virginia Department of Transportation and also by the property being "grandfathered" from several years.

Bob Miller asked if the County can accept the change being requested by the applicant, to which Chairman, Eddie Dean advised this would precipitate a change to the existing County Zoning Ordinance.

Lisa Kelley, County Administrator, advised the business is located in an area off Route 231 near Etlan; residents in this vicinity were requesting the Virginia Department of Transportation decrease the speed limit in this area just a few months ago – the applicant's business is within this area and in order for customers to access the site, they will have to find a place to park off the shoulder of the roadway, which is what the Virginia Department of Transportation is trying to discourage from occurring in the area.

In closing, Lisa Kelley, County Administrator, advised there are conditions in the County's Zoning Ordinance and if these conditions are waived for the applicant, issues will arise in the future should another request be made that might contain the same problems with parking.

Bob Miller asked if it would be agreeable to create the necessary parking behind the proposed site and create a little village of log buildings to the rear of the building and display one stacked wall of logs for display.

Doug Baumgardner advised the applicant had previously agreed to move the display buildings back to meet the setbacks then the Virginia Department of Transportation would not approve the parking in front of the property along Rt. 231.

Richard Hastings was present and commented on requirements verbalized by Wes Smith, Building Official; he also stated that his application could only be placed in the category of a "model home." He also stated he has permission to sell antiques at this site and he feels these structures are antiques; however, he was advised the structure was considered as "a model home." He stated the roof has been removed, there is no permanent foundation.

In closing, Mr. Hastings stated he is just trying to get things in order to do business at the site; he also advised that he doesn't get thirty-two (32) cars a week at the location and doesn't agree with the recommended parking spaces being requested.

Chairman, Eddie Dean stated there doesn't appear that a conclusion can be attained regarding this case tonight.

In closing, Chairman, Eddie Dean advised the County is willing to work with the applicant's request, but there must be a solution that can be accommodated by the guidelines within the County's Zoning Ordinance or the County will have to construct an amendment to the Zoning Ordinance that will accommodate the applicant's request.

After discussion, on behalf of the applicant, Doug Baumgardner tabled the request for thirty (30) days until the March 5, 2008 meeting of the Board of Supervisors.

Case Number #Z-12-07-62, which is a request by William Lewis Nicholson to rezone 1.625 acres from Residential, R-1 to Conditional Business, B-1 with proffers attached. This property is located on Route 29 Southbound Lane at Brightwood (amended rezoning application implemented on December 12, 2007 - proffer letter attached to application).

William Lewis Nicholson was present and stated that he is the rightful owner of the property he is seeking to rezone; he advised the location was a service station in 1948 and was converted into a country store as time moved forward and then an antique shop. In closing, he stated he has spoken with representatives from the Virginia Department of Transportation regarding a deceleration lane; a site plan will also need to be implemented and presented before the Madison County Planning Commission.

Betty Grayson, Zoning Administrator explained the amended rezoning application and specific requests as identified by the applicant.

William Nicholson stated that he and his wife prefer to run an antique shop at the site along with craft sales; he also stated he would be willing to have the site zoned to accommodate this.

After discussion, the applicant asked for the case to be tabled until the April 2008 meeting.

Case Number #SU-02-08-08, which is a request by William Lewis Nicholson for an indefinite special use permit to allow an apartment to be located in the main business structure as a secondary use and be lived in by the owner, caretaker or tenant. This property is located on Route 29 Southbound Lane at Brightwood and contains 1.625 acres of land, zoned R-1. (Pending the above request for rezoning).

William Nicholson was present to answer any questions pertaining to tonight's request.

Pete Elliott asked about the uses for the property, to which Betty Grayson, Zoning Administrator, advised the only use on the property now is for a single-family dwelling.

After discussion, the applicant requested the case be tabled until the April 2008 meeting.

Case Number #S-02-08-09, which is a request by John Richard of Cathlene A. Gerstein for a plat of a subdivision of land to create on (1) lot with residue on Route 615 at Graves Mill, zoned A-1 and C-1. The proposed lot will be zoned A-1 and the residue will be zoned A-1 and C-1. The final plat showed the pipestem lot (125 feet wide and 147.95 feet long) and the plat has been approved by the Virginia Department of Transportation and the Madison Health Department.

Dave Lewis, Surveyor, was present on behalf of the applicant and stated there was nothing further to add to tonight's request.

Bob Miller stated the plat denotes the residue as being zoned A-1.

Dave Lewis, Surveyor, indicated the property is A-1 and C-1 and part of the C-1 is located in the mountains; however, where the area is broad is denoted as A-1 – he advised the C-1 is not denoted on the plat.

After discussion, on motion of Clark Powers, seconded by James L. Arrington, the subdivision request is approved as recommended by the Madison County Planning Commission, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Aye
Clark Powers	Aye

Case Number #S-02-08-12, which is a request by David W. Or Brenda Skelton for a plat of a subdivision of land to create three (3) lots with residue on Route 640 near Brightwood, zoned A-1. Lot 4 has entrance to Route 640, the residue and Lot 3 will be served by a fifty-foot (50') right-of-way and Lot will have entrance on Route 640. The final plat has been approved by the Virginia Department of Transportation and the Madison Health Department.



Bill Brase was present on behalf of the applicant and stated there was nothing to add to tonight's request.

Eddie Carpenter was present and stated that he owns a farm adjacent to the property and asked what the long-range planning will be for the property.

Rodney Lillard stated the property is zoned A-1 and can only have four (4) lots developed within a ten year (10) period; he also advised there is a restriction that only allows four (4) lots on a private road.

Elvin Graves was present and also verbalized concerns about the closeness of the lots; he questioned the location of the driveway across the dam on Lot 3.

Bill Brase stated the applicants have not disclosed whether they have any future plans for the property other than what is being requested at tonight's meeting.

V. R. Shackelford, III, County Attorney, asked what currently existed on the property, to which Bill Brase advised is an existing driveway and a house and the roadway is already paved.

Bob Miller asked how Lot 3 would be accessed, to which Bill Brase advised would be accomplished by the fifty foot (50') right of way across the residue and the driveway would be over the dam.

Betty Grayson, Zoning Administrator, also advised that Brian Daniel, Erosion & Sedimentation Administrator, would have to review the plan if the right of way extension exceeded 10,000 square feet in size or if it is just a driveway extension probably an agreement is lieu of a plan for a single family dwelling.

Beth Pastore was present and verbalized comments regarding the placement of a driveway across a dam.

Bob Miller explained the existing criteria regarding subdivision of property as denoted in the County's Subdivision Ordinance.

Chairman, Eddie Dean advised the property can be subdivided by putting new easements into the property.

Betty Grayson, Zoning Administrator, advised this was so and that the applicant would have to attain property right-of-way as required by the Virginia Department of Transportation.

Bill Brase stated he was unaware of any specific criteria that opposed a driveway being positioned over a dam and feels this is a stable foundation.

After discussion, on motion of Bob Miller, seconded by Clark Powers, the Board voted to table this case until the Regular Meeting scheduled for Wednesday, February 13, 2008, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Aye
Clark Powers	Aye

Chairman, Eddie Dean stated this concludes the discussion of business for tonight's Joint Meeting.

Chairman, Eddie Dean advised that a motion will be needed to officially change the date of the Regular Meeting from Tuesday, February 12, 2008 to Wednesday, February 13, 2008.

After discussion, on motion of William L. Crigler, seconded by Bob Miller, the Board voted to accept the aforementioned change to the Regular Meeting, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Aye
Clark Powers	Aye

With no further action being required by the Board, on motion of William L. Crigler, seconded by James L. Arrington, Eddie Dean adjourned the meeting, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Aye
Clark Powers	Aye

Date: February 7, 2008